

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO ALL
CLASS ACTIONS

)
) MDL No. 1456

)
) CIVIL ACTION: 01-CV-12257-PBS

)
) Judge Patti B. Saris

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO STRIKE HAROLD BEAN
AS A PROPOSED CLASS REPRESENTATIVE**

Plaintiffs have filed a motion to add Mr. Bean to the operative complaint. As explained in the motion, he became a viable class representative virtually as plaintiffs were finalizing the Track 2 class papers. There was no legitimate opportunity to add him to the complaint prior to the class certification motion.

Before the ink on the Track 2 certification was dry the Track 2 defendants were demanding that we drop Mr. Bean and they would not stipulate to his being added to the complaint. They offered no rationale for refusing to stipulate as no legitimate basis exists for opposing the addition of Mr. Bean.

Mr. Bean is an important addition to providing coverage for Track 2 class representation that is the real reason for the Track 2 defendants' position.

Nor do defendants need 90 days to conduct discovery on one class representative. Plaintiffs immediately turned over his documents and have offered to make him available for deposition. The Track 2 squadron of defense lawyers can certainly tackle the discovery needed from this elderly gentleman lickety split and do not need 90 days.

DATED: May 26, 2006.

By /s/ Steve W. Berman
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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on May 26, 2006, I caused copies of **PLAINTIFFS' MEMORANDUM IN OPPOSITION TO STRIKE HAROLD BEAN AS A PROPOSED CLASS REPRESENTATIVE** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman

Steve W. Berman